IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 11790 of 2005

Between:

U.S.Raju, E.406389, Conductor, Banaganapalle Depot,
R/o.Banaganapalli, Kurnool Dist.

..... PETITIONER

AND

1 The APSRTC, Rep. by its Regional Manager, Kadapa Region at Kadapa.
2 The APSRTC, By its Depot Manager, Banaganapalle, Kurnool Dist.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus, or any other appropriate writ, order or direction, declaring the action of the respondents herein in imposing the punishment of deferment of annual increment for a period of 1 year with cumulative effect without holding any departmental enquiry vide proc No.01/83(12)/92-BPL, dt.16-09-1992, which was confirmed by the Appellate and review authorities as illegal, unjust, contrary to well established principles of law and as such liable to be set aside by further directing the respondents to refix the pay of the petitioner by adding the differed increment w.e.f. 16-9-1992 and to pay the arrears forthwith.

Counsel for the Petitioner:MR.S.M.SUBHAN

Counsel for the Respondents: MR.P.VINAYAKA SWAMY

The Court at the admission stage made the following O R D E R:

This writ petition is filed by the petitioner aggrieved by the proceedings of the second respondent dated 16.09.1992 in imposing the punishment of withholding annual increment for a period of one year with cumulative effect. It is stated to have been confirmed in appeal and also in revision. The grievance of the petitioner is that withholding of annual increment with cumulative effect is a major penalty but, however, imposed such penalty without conducting any enquiry. Therefore, the impugned proceedings are liable to be quashed.

At the time of hearing, learned counsel for the petitioner produced circular No.LO.1/99 dated 19.02.1999 issued by the Vice Chairman and Managing Director referring to Regulation 8 of APSRTC Employees (CC&A) Regulations and the penalties that may be imposed upon an employee by the disciplinary authority and also referring to the judgment of the Supreme Court in **KULWANTH SINGH GILL V. STATE OF PUNJAB**, wherein it was held that imposing punishment with cumulative effect would amount to a major penalty and the same cannot be imposed unless an enquiry is conducted and, therefore, instructed all disciplinary authorities not to impose the punishment of withholding the increment with cumulative effect until an enquiry as contemplated under CC&A Regulations is conducted.

Therefore, in the light of the judgment of the Supreme Court and circular instructions, the punishment imposed by the second respondent confirmed by the appellate and revisional authorities is illegal and unsustainable.

Heard the learned counsel for the petitioner and the learned standing counsel appearing for respondents.

Admittedly, the second respondent imposed the punishment of withholding of one annual increment with cumulative effect. It is also not disputed that the said punishment was imposed without conducting any regular enquiry. In the light of the

circular instructions and also the judgment referred supra, such imposition of major penalty is illegal and unsustainable as it was not preceded by regular departmental enquiry.

Accordingly, the impugned proceedings dated 16.09.1992 are set aside and the writ petition is allowed. However, this order will not preclude the respondents, if they choose to take appropriate action with reference to alleged irregularity committed by the petitioner. No costs.

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10.06.2005

usd

To

1 The Regional Manager, APSRTC, Kadapa Region at Kadapa.
2 The Depot Manager, APSRTC, Banaganapalle, Kurnool Dist.

3 Two CD copies.